



The applicant is proposing to construct a new residential building that will consist of 4 townhouse units, each with a ground level garage and three habitable stories.

The applicant is requesting the following waiver(s):

1. **Section 7.1.2.2.C.ii.1.** A minimum height of twelve (12) feet shall be provided, as measured from base flood elevation plus minimum freeboard to the underside of the first-floor slab. The design review board or historic preservation board, as applicable, may waive this height requirement by up to two (2) feet, in accordance with the design review or certificate of appropriateness criteria, as applicable.  
**The applicant is providing a clearance of 10'- 0" from BFE+ 1'-0" freeboard.**

The applicant is requesting the following variance(s):

1. A variance to reduce by 4'-0" the required front setback of 20'-0" in order to construct a building with a 16'-0" setback from 14<sup>th</sup> Terrace.

#### **COMPLIANCE WITH ZONING CODE:**

A preliminary review of the project indicates that the application, as proposed, appears to be consistent with the requirements of the City Code, with the exception of the requested waiver.

The above noted comments shall not be considered final zoning review or approval. These and all zoning matters shall require final review and verification by the Zoning Administrator prior to the issuance of a Building Permit.

#### **CONSISTENCY WITH 2040 COMPREHENSIVE PLAN**

A preliminary review of the project indicates that the proposed **multi-family residential** use appears to be **consistent** with the Future Land Use Map of the Comprehensive Plan.

#### **COMPLIANCE WITH DESIGN REVIEW CRITERIA, SECTION 2.5.3.1:**

Design review encompasses the examination of architectural drawings for consistency with the criteria stated below, with regard to the aesthetics, appearance, safety, and function of any new or existing structure and physical attributes of the project in relation to the site, adjacent structures and surrounding community. The design review board and the planning department shall review plans based upon the below stated criteria, criteria listed in neighborhood plans, if applicable, and applicable design guidelines. Recommendations of the planning department may include, but not be limited to, comments from the building department and the public works department.

- a. The existing and proposed conditions of the lot, including but not necessarily limited to topography, vegetation, trees, drainage, and waterways.  
**Satisfied**
- b. The location of all existing and proposed buildings, drives, parking spaces, walkways, means of ingress and egress, drainage facilities, utility services, landscaping structures, signs, and lighting and screening devices.

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**Satisfied**

- c. The dimensions of all buildings, structures, setbacks, parking spaces, floor area ratio, height, lot coverage and any other information that may be reasonably necessary to determine compliance with the requirements of the underlying zoning district, and any applicable overlays, for a particular application or project.  
**Satisfied; However, the applicant is requesting one design waiver and a front yard variance from the Board.**
- d. The color, design, selection of landscape materials and architectural elements of Exterior Building surfaces and primary public interior areas for Developments requiring a Building Permit in areas of the city identified in section 2.5.3.2.  
**Partially satisfied; staff recommends a different color scheme for exterior materials and window frames in order to differentiate from proposed neighboring project (DRB23-0945).**
- e. The proposed site plan, and the location, appearance and design of new and existing Buildings and Structures are in conformity with the standards of this Ordinance and other applicable ordinances, architectural and design guidelines as adopted and amended periodically by the Design Review Board and Historic Preservation Boards, and all pertinent master plans.  
**Satisfied; However, the applicant is requesting from the Board one front yard setback variance.**
- f. The proposed Structure, and/or additions or modifications to an existing structure, indicates a sensitivity to and is compatible with the environment and adjacent Structures, and enhances the appearance of the surrounding properties.  
**Satisfied; However, the applicant is requesting from the Board one front yard setback variance.**
- g. The design and layout of the proposed site plan, as well as all new and existing buildings shall be reviewed so as to provide an efficient arrangement of land uses. Particular attention shall be given to safety, crime prevention and fire protection, relationship to the surrounding neighborhood, impact on contiguous and adjacent Buildings and lands, pedestrian sight lines and view corridors.  
**Satisfied**
- h. Pedestrian and vehicular traffic movement within and adjacent to the site shall be reviewed to ensure that clearly defined, segregated pedestrian access to the site and all buildings is provided for and that all parking spaces are usable and are safely and conveniently arranged; pedestrian furniture and bike racks shall be considered. Access to the Site from adjacent roads shall be designed so as to interfere as little as possible with traffic flow on these roads and to permit vehicles a rapid and safe ingress and egress to the Site.  
**Satisfied**

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- i. Lighting shall be reviewed to ensure safe movement of persons and vehicles and reflection on public property for security purposes and to minimize glare and reflection on adjacent properties. Lighting shall be reviewed to assure that it enhances the appearance of structures at night.  
**Not Satisfied; a lighting plan has not been submitted.**
- j. Landscape and paving materials shall be reviewed to ensure an adequate relationship with and enhancement of the overall Site Plan design.  
**Partially Satisfied; staff recommends additional landscaping, especially on the ground floor along the perimeter/foundation of the building.**
- k. Buffering materials shall be reviewed to ensure that headlights of vehicles, noise, and light from structures are adequately shielded from public view, adjacent properties and pedestrian areas.  
**Satisfied**
- l. The proposed structure has an orientation and massing which is sensitive to and compatible with the building site and surrounding area and which creates or maintains important view corridor(s).  
**Satisfied**
- m. The building has, where feasible, space in that part of the ground floor fronting a street or streets which is to be occupied for residential or commercial uses; likewise, the upper floors of the pedestal portion of the proposed building fronting a street, or streets shall have residential or commercial spaces, shall have the appearance of being a residential or commercial space or shall have an architectural treatment which shall buffer the appearance of the parking structure from the surrounding area and is integrated with the overall appearance of the project.  
**Satisfied**
- n. The building shall have an appropriate and fully integrated rooftop architectural treatment which substantially screens all mechanical equipment, stairs and elevator towers.  
**Satisfied**
- o. An addition on a building site shall be designed, sited and massed in a manner which is sensitive to and compatible with the existing improvement(s).  
**Not Applicable**
- p. All portions of a project fronting a street or sidewalk shall incorporate an architecturally appropriate amount of transparency at the first level in order to achieve pedestrian compatibility and adequate visual interest.  
**Satisfied**
- q. The location, design, screening and buffering of all required service bays, delivery bays, trash and refuse receptacles, as well as trash rooms shall be arranged so as to have a minimal impact on adjacent properties.

**Satisfied**

- r. In addition to the foregoing criteria, subsection [118-]104(6)(t) of the city Code shall apply to the design review board's review of any proposal to place, construct, modify or maintain a wireless communications facility or other over the air radio transmission or radio reception facility in the public rights-of-way.

**Not Applicable**

- s. The structure and site complies with the sea level rise and resiliency review criteria in chapter 7, article I, as applicable.

**Not Satisfied; see below.****COMPLIANCE WITH SEA LEVEL RISE AND RESILIENCY REVIEW CRITERIA**

Section 7.1.2.4(a)(i) of the Land Development Regulations establishes review criteria for sea level rise and resiliency that must be considered as part of the review process for board orders. The following is an analysis of the request based upon these criteria:

- (1) A recycling or salvage plan for partial or total demolition shall be provided.

**Not Satisfied****A recycling plan shall be provided as part of the submittal for a demolition/building permit to the building department.**

- (2) Windows that are proposed to be replaced shall be hurricane proof impact windows.

**Satisfied**

- (3) Where feasible and appropriate, passive cooling systems, such as operable windows, shall be provided.

**Satisfied**

- (4) Resilient landscaping (salt tolerant, highly water-absorbent, native or Florida friendly plants) shall be provided, in accordance with Chapter 4 of the Land Development Regulations.

**Satisfied**

- (5) The project applicant shall consider the adopted sea level rise projections in the Southeast Florida Regional Climate Action Plan, as may be revised from time-to-time by the Southeast Florida Regional Climate Change Compact. The applicant shall also specifically study the land elevation of the subject property and the elevation of surrounding properties.

**Satisfied**

- (6) The ground floor, driveways, and garage ramping for new construction shall be adaptable to the raising of public rights-of-ways and adjacent land and shall provide sufficient height and space to ensure that the entry ways and exits can be modified to accommodate a higher street height of up to three (3) additional feet in height.

**Satisfied**

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- (7) In all new projects, all critical mechanical and electrical systems shall be located above base flood elevation. Due to flooding concerns, all redevelopment projects shall, whenever practicable, and economically reasonable, move all critical mechanical and electrical systems to a location above base flood elevation.  
**Satisfied**
- (8) Existing buildings shall be, where reasonably feasible and economically appropriate, elevated up to base flood elevation, plus City of Miami Beach Freeboard.  
**Not Applicable**
- (9) When habitable space is located below the base flood elevation plus City of Miami Beach Freeboard, wet or dry flood proofing systems will be provided in accordance with Chapter of 54 of the City Code.  
**Not Applicable**
- (10) In all new projects, water retention systems shall be provided.  
**Satisfied; additional information will be required at the time of building permit in order to demonstrate compliance.**
- (11) Cool pavement materials or porous pavement materials shall be utilized.  
**Satisfied; additional information will be required at the time of building permit in order to demonstrate compliance.**
- (12) The project design shall minimize the potential for a project causing a heat island effect on site.  
**Satisfied; additional information will be required at the time of building permit in order to demonstrate compliance.**

**STAFF ANALYSIS:**  
**DESIGN REVIEW**

The applicant is proposing to construct four (4), four-story townhouse units on a vacant corner lot. A similar development of townhouse units by a different applicant and architect was reviewed and approved by the Board in May of 2019. This project is located in the West Avenue / Bay Front neighborhood, which is an amalgam of low-density multi-family buildings and older single-family homes nestled in between high-density residential towers along the waterfront of Bay Road and the commercial district on Alton Road. In addition to Design Review, this application is requesting one design waiver pertaining to the ground floor clearance, and a variance from the front yard setback.

The proposed townhouse units are all 3-bedrooms and are nearly equally sized, ranging from 1833 sf to 1858 sf. Each unit has a central staircase and pneumatic elevator that accesses every floor. The ground floor of each townhouse is comprised of a garage with storage and utilities. The first habitable level houses the common areas. The second level is dedicated to the bedrooms, while the third level features a family and common bathroom that opens out to a terrace with a plunge pool.

The townhouse complex is designed in a contemporary style featuring flat roofs, stucco walls and wood-like cladding on the architectural accents, and the ground floor finished in warm gray stucco with 4" reveals. This application is similar in design to the sister application DRB23-0945, which is also the proposed building's neighbor to the north. Staff's design recommendations are similar to those of the sister application that include adding windows to the garage doors and a more robust landscape plan with various height plantings along the ground floor elevations and additional shrubs and ground cover throughout. Additionally, staff recommends revising the exterior finishes and colors in order to differentiate this project from its neighbor. Staff recommends a lighter color palette for the exterior finishes, inclusive of the window frames and balcony rails. Further, staff recommends a different stucco texture or material for the ground floor elevations and landscape planters.

The design waiver that the applicant is requesting pertains to the clearance of the garage from the code requires a minimum of 12'-0" height clearance. The first habitable floor of the building is designed at 19'-8" NGVD, which translates to a garage clearance height of 10'-0" above 9' NGVD in order to provide parking with a slab clearance that may accommodate elevation changes to the ground floor with future raising of roadways. The Design Review Board may waive this height requirement by up to 2'-0". Staff is supportive of the waiver for a clearance of 10'-0".

In summary, staff is supportive of the application with the noted design recommendations.

### **VARIANCE REVIEW**

The applicant is requesting the following variance(s):

A variance to reduce by 4'-0" the required front setback of 20'-0" in order to construct a building with a 16'-0" setback from 14<sup>th</sup> Terrace.

- Variance requested from:

#### **Sec. 7.2.4.3 – Development Regulations Table (RM-1)**

BUILDING SETBACKS	
Front Setback <b>(A)</b>	
Subterranean	20 feet
Pedestal	

The subject site is a relatively small corner lot in the RM-1 zoning district, with an overall width of 60 feet and overall depth of 100 feet. The required front setback along 14<sup>th</sup> Terrace is 20 feet, and 16 feet is proposed. The required Bay Road street side setback is 7.5 feet and 10 feet is proposed. The required interior side setback is 7.5 feet and 12.5 feet is proposed. The required rear yard setback is 10 feet and 10 feet is proposed. Although the applicant is requesting a variance from the required front setback, the Bay Road side and interior side yard setbacks have been substantially increased from the required setbacks. The overall

height of 41'-3" is also well below the 55 foot maximum height for the district, and no rooftop access is proposed.

Typically, an RM-1 lot has a lot depth of 105' to 115 feet. The subject site, with a lot depth of 100 feet, does present a practical difficulty in constructing a townhome project as proposed by the applicant. The increased street side, and interior side yard setbacks, as well as the lower building height proposed with no roof top amenities, fully mitigates the requested variance, and should not result in a negative impact on surrounding properties.

**RECOMMENDATION:**

In view of the foregoing analysis, staff recommends **approval** of the design subject to the conditions enumerated in the attached Draft Order, which address the inconsistencies with the aforementioned Design Review criteria and Sea Level Rise criteria.

**DESIGN REVIEW BOARD**  
**City of Miami Beach, Florida**

MEETING DATE: October 11, 2023

PROPERTY: **1425 Bay Road**

FILE NO: DRB23-0946

IN RE: An application for Design Review Approval for the construction of a new 4-story townhome project, including one or more waivers and a front setback variance, on a vacant lot.

LEGAL: Lot 12, Block 79B, "Alton Beach Bay Front Re-subdivision", according to the Plat thereof, as recorded in Plat Book 16, at Page 1 of the Public Records of Miami-Dade County, Florida.

APPLICANT: 1425 BAY SPE LLC

**ORDER**

The City of Miami Beach Design Review Board makes the following FINDINGS OF FACT, based upon the evidence, information, testimony and materials presented at the public hearing and which are part of the record for this matter:

**I. Design Review**

- A. The Board has jurisdiction pursuant to Section 2.1.3.1 of the Land Development Regulations. The property is not located within a designated local historic district and is not an individually designated historic site.
- B. Based on the plans and documents submitted with the application, testimony and information provided by the applicant, and the reasons set forth in the Planning Department Staff Report, the project as submitted is inconsistent with Design Review Criteria d, i, j & s in Section 2.5.3.1 of the Land Development Regulations.
- C. Based on the plans and documents submitted with the application, testimony and information provided by the applicant, and the reasons set forth in the Planning Department Staff Report, the project as submitted is inconsistent with Sea Level Rise Criteria 1 in Section 7.1.2.4(a)(i) of the Land Development Regulations
- D. The project would be consistent with the criteria and requirements 2.5.3.1 and/ or Section 7.1.2.4(a)(i) if the following conditions are met:
  1. Revised elevation, site plan and floor plan drawings for the proposed multi-family residential building shall be submitted to and approved by staff; at a minimum, such drawings shall incorporate the following:

1. The minimum height requirement of (12) feet, as measured from base flood elevation plus minimum freeboard to the underside of the first-floor slab, shall be waived by 2'-0".
  2. The design of the projecting landscape planters on all elevations shall be revised, in a manner to be reviewed and approved by staff consistent with the Design Review Criteria and/or the directions from the Board.
  3. The exterior material finishes shall be of a lighter color palette, including window frames and balcony rails, in a manner to be reviewed and approved by staff consistent with the Design Review Criteria and/or the directions from the Board.
  4. The final details of all exterior surface finishes and materials, including samples, shall be submitted, in a manner to be reviewed and approved by staff consistent with the Design Review Criteria and/or the directions from the Board.
  5. The final details of all exterior surface finishes and materials, including samples, shall be submitted, in a manner to be reviewed and approved by staff consistent with the Design Review Criteria and/or the directions from the Board.
  6. Prior to the issuance of a Certificate of Occupancy, the project Architect shall verify, in writing, that the subject project has been constructed in accordance with the plans approved by the Planning Department for Building Permit.
2. A revised landscape plan, prepared by a Professional Landscape Architect, registered in the State of Florida, and corresponding plans shall be submitted to and approved by staff. The species, type, quantity, dimensions, spacing, location and overall height of all plant material shall be clearly delineated and subject to the review and approval of staff. At a minimum, such plans shall comply with Chapter 4-Landscape Requirements of the Miami Beach Code and shall incorporate the following:
- a. The landscape design shall include additional shrubs and ground covers of varying height along the perimeter of the ground floor, in a manner to be reviewed and approved by staff consistent with the Design Review Criteria and/or the directions from the Board.
  - b. Prior to the issuance of a building permit, the applicant shall submit a tree protection plan for all trees to be retained on site. Such plan shall be subject to the review and approval of staff, and shall include, but not be limited to a sturdy tree protection fence installed at the dripline of the trees prior to any construction.

- c. Prior to the issuance of a building permit, the applicant shall submit a tree protection plan for all trees to be retained on site. Such plan shall be subject to the review and approval of staff, and shall include, but not be limited to a sturdy tree protection fence installed at the dripline of the trees prior to any construction.
- d. Any necessary root and tree branch pruning with a diameter at breast height (DBH) of 2" or greater shall be approved by the City Urban Forester prior to any tree work.
- e. Existing trees to be retained on site shall be protected from all types of construction disturbance. Root cutting, storage of soil or construction materials, movement of heavy vehicles, change in drainage patterns, and wash of concrete or other materials shall be prohibited.
- f. Street trees shall be required within the swale at the front of the property if not in conflict with existing utilities, in a manner to be reviewed and approved by the Public Works Department.
- g. The proposed and existing trees located within the swale shall be subject to the review and approval of Green Space and CIP.
- h. Any proposed new street trees shall be of a planting species consistent or similar with existing street trees in the immediate area or consistent with any master street tree plan for the area, subject to the review and approval of the City Urban Forester.
- i. Any existing plant material within the public right-of-way may be required to be removed, as the discretion of the Public Works Department.
- j. A fully automatic irrigation system with 100% coverage and an automatic rain sensor in order to render the system inoperative in the event of rain. Right-of-way areas shall also be incorporated as part of the irrigation system.
- k. The utilization of root barriers and Silva Cells, as applicable, shall be clearly delineated on the revised landscape plan.
- l. The applicant shall verify, prior to the issuance of a Building Permit, the exact location of all backflow preventors and all other related devices and fixtures. The location of backflow preventors, Siamese pipes or other related devices and fixtures, if any, and how they are screened with landscape material from the right-of-way, shall be clearly indicated on the site and landscape plans, and shall be subject to the review and approval of staff.
- m. The applicant shall verify, prior to the issuance of a Building Permit, the exact location of all applicable FPL transformers or vault rooms. The location of any exterior transformers and how they are screened with

landscape material from the right of wall shall be clearly indicated on the site and landscape plans and shall be subject to the review and approval of staff.

- n. Prior to the issuance of a Certificate of Occupancy, the Landscape Architect or the project architect shall verify, in writing, that the project is consistent with the site and landscape plans approved by the Planning Department for Building Permit.

**In accordance with section 2.2.4.8 of the Land Development Regulations, the applicant, the City Manager, Miami Design Preservation League, Dade Heritage Trust, or an affected person may appeal a decision of the design review board for design review approval only to the city commission, except that orders granting or denying a request for rehearing shall not be reviewed by the commission.**

## **II. Variance(s) and Waiver(s)**

- A. A waiver from Section 7.1.2.2.C.ii.1 filed as part of this application. The Board hereby grants the requested waiver to allow a first level clearance of 10'- 0" from BFE+ 1'-0" freeboard.
- B. The applicant filed an application with the Planning Department for the following variance(s):
  1. A variance from Section 7.2.4.3 – Development Regulations Table (RM-1), to reduce by 4'-0" the required front setback of 20'-0" in order to construct a building with a 16'-0" setback from 14<sup>th</sup> Terrace.
- A. The applicant has submitted plans and documents with the application that satisfy Article 1, Section 2 of the Related Special Acts, as noted above allowing the granting of a variance if the Board finds that practical difficulties exist with respect to implementing the proposed project at the subject property.

Additionally, the Board has concluded that the plans and documents submitted with the application comply with the following hardship criteria, as they relate to the requirements of Section 2.8.3 of the Land Development Regulations:

- i. Special conditions and circumstances exist which are peculiar to the land, structure, or building involved and which are not applicable to other lands, structures, or buildings in the same zoning district;
- ii. The special conditions and circumstances do not result from the action of the applicant;
- iii. Granting the variance requested will not confer on the applicant any special privilege that is denied by these land development regulations to other lands, buildings, or structures in the same zoning district;
- iv. Literal interpretation of the provisions of these land development regulations would deprive the applicant of rights commonly enjoyed by other properties in the same

- zoning district under the terms of these land development regulations and would work unnecessary and undue hardship on the applicant;
- v. The variance granted is the minimum variance that will make possible the reasonable use of the land, building or structure;
  - vi. The granting of the variance will be in harmony with the general intent and purpose of these land development regulations and that such variance will not be injurious to the area involved or otherwise detrimental to the public welfare;
  - vii. The granting of this request is consistent with the comprehensive plan and does not reduce the levels of service as set forth in the plan; and
  - viii. The granting of the variance will result in a structure and site that complies with the sea level rise and resiliency review criteria in chapter 7, article I, as applicable.
- B. The Board hereby **Approves** the variance requests and imposes the following condition based on its authority in Section 2.8.4 of the Land Development Regulations:
- 1. Substantial modifications to the plans submitted and approved as part of the application, as determined by the Planning Director or designee, may require the applicant to return to the Board for approval of the modified plans, even if the modifications do not affect variances approved by the Board.

**The decision of the Board regarding variances shall be final and there shall be no further review thereof except by resort to a court of competent jurisdiction by petition for writ of certiorari.**

**III. General Terms and Conditions applying to both 'I. Design Review Approval and 'II. Variances and Waivers' noted above.**

- A. As a condition of the waiver from Section 7.1.2.2.C.ii.1 and the variance from Section 7.2.4.3, approved herein, the property owner shall voluntarily elect, at the owner's sole discretion, to execute a restrictive covenant running with the land, in a form approved by the planning director and city attorney affirming that, in perpetuity, no portion of the approved building on the property shall be leased or rented for a period of less than six months and one day.
- B. All new construction over 7,000 square feet shall be required to be, at a minimum, certified as LEED Gold by USGBC. In lieu of achieving LEED Gold certification, properties can elect to pay a sustainability fee, pursuant Section 7.1.3.2 of the Land Development Regulations. This fee is set as a percentage of the cost of construction.
- C. Upon the issuance of a final Certificate of Occupancy or Certificate of Completion, as applicable, the project approved herein shall be maintained in accordance with the plans approved by the board and shall be subject to all conditions of approval herein, unless otherwise modified by the Board. Failure to maintain shall result in the issuance of a Code Compliance citation, and continued failure to comply may result in revocation of the Certificate of Occupancy, Completion and Business Tax Receipt.

- D. During construction work, the applicant shall maintain gravel at the front of the construction site within the first 15'-0" of the required front yard and including the swale (subject to the review and approval of Public Works), to mitigate disturbance of soil and mud by related personal vehicles exiting and entering the site. All construction materials, including dumpsters and portable toilets, shall be located behind the construction fence and not visible from the right-of-way.
- E. During the course of construction, all vehicles, including, but not limited to all personal vehicles, shall park within the confines of the private property, the swale directly abutting the construction site, or at alternate overflow parking sites that are not on-street metered spaces and not zoned RS. Additionally, parking of any vehicles shall be prohibited in the travel lanes of all streets.
- F. All allowable construction signage shall be attached to or situated behind the construction fence and shall be limited to one (1) sign, not to exceed four (4) square feet, in accordance with Section 6.3.2 of the Land Development Regulations.
- G. The building and parking departments shall approve a construction parking plan prior to the issuance of any building permit, including applicable demolition permits for the project.
- H. The applicant shall ensure that the contractor(s) observe good construction practices and prevent construction materials and debris from impacting the right-of-way.
- I. The contractor(s) shall ensure that the street and the swale directly abutting the construction site remains free of debris and refuse at all times; at a minimum, the contractor(s) shall inspect and clear the street and swale areas before leaving at the end of each day.
- J. This order shall be enforced by the Building, Planning, Parking and Code Compliance Departments.
- K. A recycling/salvage plan shall be provided as part of the submittal for a demolition/building permit, in a manner to be reviewed and approved by staff.
- L. A copy of all pages of the recorded Final Order shall be scanned into the plans submitted for building permit and shall be located immediately after the front cover page of the permit plans.
- M. The Final Order shall be recorded in the Public Records of Miami-Dade County, prior to the issuance of a Building Permit.
- N. Satisfaction of all conditions is required for the Planning Department to give its approval on a Certificate of Occupancy; a Temporary Certificate of Occupancy or Partial Certificate of Occupancy may also be conditionally granted Planning Departmental approval.
- O. The Final Order is not severable, and if any provision or condition hereof is held void or unconstitutional in a final decision by a court of competent jurisdiction, the order shall be returned to the Board for reconsideration as to whether the order meets the criteria for

approval absent the stricken provision or condition, and/or it is appropriate to modify the remaining conditions or impose new conditions.

- P. The conditions of approval herein are binding on the applicant, the property's owners, operators, and all successors in interest and assigns.
- Q. Nothing in this order authorizes a violation of the City Code or other applicable law, nor allows a relaxation of any requirement or standard set forth in the City Code.

IT IS HEREBY ORDERED, based upon the foregoing findings of fact, the evidence, information testimony and materials presented at the public hearing, which are part of the record for this matter, and the staff report and analysis, which are adopted herein, including the staff recommendations, which were amended and adopted by the Board, that the application for Design Review approval is GRANTED for the above-referenced project subject to those certain conditions specified in Paragraph I, II, III of the Finding of Fact, to which the applicant has agreed.

PROVIDED, the applicant shall build substantially in accordance with the plans, entitled "1425 Bay Road Townhouses" as prepared by **Gaviria Architects**, dated, signed, and sealed August 7, 2023, and as approved by the Design Review Board, as determined by staff.

When requesting a building permit, the plans submitted to the Building Department for permit shall be consistent with the plans approved by the Board, modified in accordance with the conditions of approval that must be satisfied prior to permit issuance, as set forth in this Order, have been met.

The issuance of the approval does not relieve the applicant from obtaining all other required Municipal, County and/or State reviews and permits, including final zoning approval. If adequate handicapped access is not provided on the Board approved plans, this approval does not mean that such handicapped access is not required. When requesting Building permit, the plans submitted to the Building Department for permit shall be consistent with the plans approved by the Board, modified in accordance with the conditions set forth in this Order.

If the Full Building Permit for the project is not issued within eighteen (18) months of the meeting date at which the original approval was granted, the application will expire and become null and void, unless the applicant makes an application to the Board for an extension of time, in accordance with the requirements and procedures of Section 2.2.4.6 of the Land Development Regulations; the granting of any such extension of time shall be at the discretion of the Board. If the Full Building Permit for the project shall expire for any reason (including but not limited to construction not commencing and continuing, with required inspections, in accordance with the applicable Building Code), the application will expire and become null and void.

In accordance with Chapter 2 of the Land Development Regulations, the violation of any conditions and safeguards that are a part of this Order shall be deemed a violation of the land development regulations of the City Code. Failure to comply with this **Order** shall subject the application to Chapter 2 of the Land Development Regulations, for revocation or modification of the application.

Dated \_\_\_\_\_.

